

SITE DEVELOPMENT PERMIT

FILE NO.	H19-002
LOCATION OF PROPERTY	West side of Page Street approximately 210 feet southerly of West San Carlos Street (427 and 433 Page Street)
ZONING DISTRICT	R-M Multiple Residence Zoning District
GENERAL PLAN DESIGNATION	Mixed Use Neighborhood
PROPOSED USE	Site Development Permit to allow the demolition of residential buildings and accessory buildings, removal of 16 trees including four (4) ordinance-size trees, and the construction of a three-story, seven-unit townhome development consisting of two buildings on an approximately 0.46-gross acre site.
ENVIRONMENTAL STATUS	Exempt per CEQA Guidelines Section 15332 for In-fill Development Projects
OWNER ADDRESS	Longshuo Culture Corporation 449 South Beverly Drive Beverly Hills, CA 90212
APPLICANT ADDRESS	Rong Chang USA Corp Attn: Wendy Chen 2050 Concourse Drive, Suite 50 San José, CA 95131

The Director of Planning, Building, and Code Enforcement determines, concludes, and finds as follows for this proposed project:

1. **Site Description and Surrounding Uses.** The project site is located at 427 and 433 Page Street in the City of San José. The site is bordered by multifamily residential properties to the north, south, east, and west. Page Street is located east of the site.
2. **Project Description.** A Site Development Permit to allow the demolition of residential and accessory buildings, removal of 16 trees including four (4) ordinance-size trees, and the construction of a three-story, seven-unit townhome development consisting of two buildings on an approximately 0.46-gross acre site. The development would consist of four 3-bedroom townhomes and three 2-bedroom townhomes. The project would provide 18 parking spaces, 12 of which would be within covered garages and six uncovered parking spaces along the northern property line interior to the site. The development would also provide one

motorcycle parking space and two bicycle parking spaces. Each townhome unit would have a private rear yard and the project proposes to plant ten 24-inch box trees and twelve 15-gallon trees on-site.

3. **General Plan Conformance.** The subject site is designated Mixed Use Neighborhood on the Land Use/Transportation Diagram of the Envision San José 2040 General Plan. This designation allows densities up to 30 dwelling units per acre and Floor Area Ratios for commercial development between .25:1 through 2.0:1. The designation is intended for development primarily with either townhouse or small lot single-family residences and also to existing neighborhoods that were historically developed with a wide variety of housing types, including a mix of residential densities and forms.

The project would have a density of 17 dwelling units per acre, consistent with the density limitation in the Mixed Use Neighborhood General Plan Land Use Designation. The development would be an infill development for a medium density project and would be developed as townhomes consistent with the vision for the General Plan Land Use designation.

Additionally, the project would be consistent with the following goals and policies of the San José Envision 2040 General Plan:

- a. **LU-11.6:** For new infill development, match the typical lot size and building form of any adjacent development, with particular emphasis given to maintaining consistency with other development that fronts onto a public street to be shared by the proposed new project. As an exception, for parcels already developed with more than one dwelling unit, new development may include up to the same number of dwelling units as the existing condition. The form of such new development should be compatible with and, to the degree feasible, consistent with the form of the surrounding neighborhood pattern.

The project is designed so that the townhome unit along Page Street is oriented towards the public right-of-way. The project continues the neighborhood's pattern of long driveways into the narrow residential properties. The neighborhood is developed with a mix of one and two-story residential buildings. The project includes increased setbacks along the property lines and steps the third-floor portions of the development back to complement the development with the surrounding neighborhood.

4. **Zoning Ordinance Compliance.** The subject site is located in the R-M Multiple Residence Zoning District. This district provides for use and occupancy of higher density residential development and higher density residential-commercial mixed-use development. The project is consistent with the regulations of the Zoning Ordinance in the following manner:

- a. *Use:* Multiple Dwelling Developments are permitted in the R-M Multiple Residence Zoning District.
- b. *Development Standards (Setbacks and Height).*

Development Standards	R-M Zoning District	Project
Front Setback	10 feet	10 feet
Side, Interior	5 feet plus 1 foot for every story over the second (Section 20.30.260) (6 feet)	6 feet
Rear, Interior	25 feet	25 feet

Maximum allowed height	45 feet above grade, or established in Chapter 20.85 As a site within 2,000 feet of a light rail station the maximum height is 120 feet, per 20.85.020.D	32 feet 8 inches
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In accordance with the R-M Zoning District's required setbacks, the project is set back a minimum of 10 feet from the front property line, 6 feet from each side property line, and 25 feet from the rear property line. The project has a maximum roof height of 32 feet and 8 inches which does not exceed the R-M Zoning District's maximum height limitation of 45 feet nor the 120 feet height permitted by Municipal Code Section 20.85.020.D.

- c. **Parking.** Pursuant to Table 20-210 of the San José Municipal Code, 2.3 parking spaces are required for 2-bedroom units and 2.6 parking spaces are required for 3-bedroom units. The project includes four 3-bedroom units and three 2-bedroom units. Therefore, a total of 18 parking spaces would be required for the development.

Consistent with Table 20-210, the development proposes 18 parking spaces; twelve spaces would be within private 2-car and 1-car garages and six uncovered parking spaces within the development.

5. **Residential Design Guidelines.** The project would be consistent with the Residential Design Guidelines, including:

- a. **Existing Neighborhoods, Chapter 1.I:** New developments in existing neighborhoods should include distinctive architectural characteristics of the surrounding development, for example, window and door detailing, decoration materials, roof style and pitch, finished-floor height, porches, and bay windows

The front elevation of the building facing Page Street uses the column and trim lines to create an illusion of a covered porch at the entryway for the building drawing upon the existing surrounding character of the neighborhood homes with covered porches.

- b. **Common and Private Open Space, Chapter 10.A:** New residential developments should, at a minimum provide private open space for each residential unit. For garden townhomes, a minimum of 300 square feet with a minimum width of 15 feet of private open space should be provided per unit.

The townhome units all provide a minimum of 300 square feet of private open space per unit through private yards and balconies.

- c. **Common and Private Open Space, Chapter 10.C:** The size and placement of second floor windows should be carefully planned to reasonably protect the privacy of adjacent yard areas.

The development includes carefully placed windows on the second and third stories of the townhomes to break up the massing of the facade while not overwhelming the adjacent properties and for added privacy.

6. **Environmental Review.** Under the provisions of Section 15332 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the Site Development Permit is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. CEQA Guidelines Section 15332 Infill Development Projects exempts projects

characterized as in-fill development meeting the following conditions: a) the project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations; b) the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; c) the project site has no value as habitat for endangered, rare or threatened species; d) approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and e) the site can be adequately served by all required utilities and public services. The project is consistent with the Envision San José 2040 General Plan, general plan policies, and the standards and regulations of the R-M Multiple Residence Zoning District, as described above. The development occurs within city limits on a 0.46-gross acre site and is surrounded by urban residential uses. The project site has no value as habitat for endangered, rare or threatened species and the approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality. The site can be adequately served by all required utilities and public services. In addition, the project would not impact an historic structure as determined by an historic assessment prepared by Archives and Architecture. Through the environmental and project review of this proposal, the project will incorporate all standard permit conditions and measures, in accordance with City standards and regulations for construction and operations that will not result in any significant or unacceptable negative effects on the environment or adjacent uses.

7. **Site Development Permit Findings.** Chapter 20.100 of Title 20 of the San José Municipal Code establishes required findings for issuance of a Site Development Permit, which findings are made for the Project based on the above-state findings related to General Plan, Zoning and CEQA conformance and for the reasons state below, and subject to the conditions set forth in this permit.
- a. The Site Development Permit, as approved, is consistent with and will further the policies of the General Plan and applicable Specific Plans and area development policies; and
As described above, the project is consistent with and will further the policies of the General Plan. The proposed project is compatible with the existing surrounding neighborhood and does not exceed the density limitation of the General Plan Land Use Designation.
 - b. The Site Development Permit, as approved, conforms with the Zoning Code and all other provisions of the San José Municipal Code applicable to the project; and
As further described in the Zoning Ordinance compliance section above, the project complies with the Zoning Code with respect to setback requirements, height limitation, and off-street parking requirements.
 - c. The Site Development Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and
Analysis: Staff followed City Council Policy 6-30: Public Outreach Policy for Pending Land Use and Development Proposal and a notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The draft permit is also posted on the City's website. Staff has not received any public comments on the project.

- d. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.

The project would result in two townhouse buildings with three attached residential units in one building and four residential units in the other townhouse building. The two residential buildings would be designed in a similar style with pitched roofs and curved architectural features above the balconies and building entries. The driveway is located on the north side of the project site and provides access to all the units and parking. Parking would be located within the residential units, as well as within the common area along the northern property line and between the two townhome buildings. The common area would include landscaping along the project's Page Street frontage and the trash collection area would be shielded from view from the public right-of-way by the front townhome building. The building, parking, and landscaping are mutually compatible.

- e. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.

The proposed building's location and elevations provide adequate separation and articulation to reduce the massing of the building as seen from surrounding development. The residential uses and private yards are compatible with the surrounding uses and outdoor space.

- f. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Analysis: The project would be located on a site designated for residential use. The development is located in an urbanized area that is adequately served by all required utilities and public services, and the Stormwater Control Plan is in compliance with the City's stormwater policies that require low impact development stormwater treatment measures to minimize stormwater pollutant discharges. Construction activities would only result in temporary noise, vibration, and air quality impacts. The project includes a condition of approval consistent with the General Plan policies to test the soil for lead contamination and remove any contamination above regulatory levels in coordination with the Santa Clara Department of Environmental Health. Therefore, the project will not have unacceptable negative effects on adjacent properties. The project would be subject to the City's Standard Environmental Permit Conditions requiring payment of applicable Santa Clara Valley Habitat Conservation Plan fees and adherence to best management construction practices. The project's operations would be residential and compatible with the surrounding residential use of the area.

- g. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.

The project includes landscaping along the property's Page Street frontage consistent with the surrounding neighborhood's front yards and along the driveway and within the development to soften the hardscape. The project will plant twenty-two trees on-site and will utilize shrubs and landscaping to buffer the adjacent residential uses from the

uncovered parking. Additionally, the project includes a 6-foot high masonry block wall along the northern uncovered parking spaces to further buffer the parking use from the adjacent multi-family development. The trash facilities are located centrally on the site and shielded by the parking and two townhome buildings.

- h. Traffic access, pedestrian access and parking are adequate.

Page Street and the sidewalk along Page Street would provide access to the project site. The project would provide 18 parking spaces on-site to provide adequate parking for the seven townhome units.

8. **Tree Removal Findings.** After investigation and review held pursuant to Chapter 13.32 of the San José Municipal Code, the Director of City Planning finds that:

- a. That the condition of the tree with respect to disease, danger of falling, proximity to an existing or proposed structure, and/or interference with utility services, is such that preservation of the public health or safety requires its removal.

Analysis: The project proposes to remove 16 trees, including four ordinance-size trees since the trees would be within the development footprint or would be impacted by the construction of the new townhome development. The project would require a minimum of thirty-two 15-gallon replacement trees for the removal of the trees. Two 15-gallon trees may be replaced by one 24-inch box tree. The project applicant would plant twelve 15-gallon box Italian Cypress trees and ten 24-inch box trees on-site including Japanese Maple and California Buckeye trees. These trees would meet the minimum replacement requirement.

9. **Demolition Findings.** Under the provisions of Section 20.80.460 of the San José Municipal Code, prior to the issuance of any development permit, which allows for the demolition, removal or relocation of a building, the following shall be considered to determine whether the benefits of permitting the demolition, removal or relocation outweigh the impacts of the demolition, removal or relocation:

- a. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
- b. The failure to approve the permit would jeopardize public health, safety or welfare;
- c. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;
- d. The approval of the permit should maintain the supply of existing housing stock in the City of San José;
- e. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
- f. Rehabilitation or reuse of the existing building would not be feasible; and
- g. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

Analysis: Consistent with criteria 3 and 4 above, the project includes demolition of two existing single-family residences and accessory structures to allow the construction of the seven attached residential units facilitating a project that is compatible with the surrounding neighborhood as described above and also increasing the existing housing

stock of the City. The demolition would facilitate the development of a residential development compatible with the surrounding single-family and multifamily uses around the site and would not result in any adverse impacts on the surrounding residential neighborhood. The rehabilitation or reuse of the existing development on-site would limit the ability to maximize the infill development on the narrow project site due to the orientation and location of the existing development.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire four years from and after the date of issuance hereof by said Director, if within such time period, a Building Permit has not been obtained or the use, if no Building Permit is required, has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, the Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions.
4. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Regional Wastewater Facility represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.
5. **Conformance with Plans.** The development of the site shall conform to the approved Special Use Permit plans entitled, "Page Street Development" dated received December 10, 2020, on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
6. **Colors and Materials.** All building colors and materials are to be those specified on the Approved Plan Set.

7. **Affordable Housing Requirements.** This Permit is subject to its Affordable Housing Compliance Plan as set forth by the Department of Housing, which includes the following conditions:
- The permittee must execute and record their City Affordable Housing Agreement memorializing the IHO obligations against the property and any contiguous property under common ownership and control prior to earliest of: issuance of any building permits, or approval of any parcel or final map.
 - Permittee must strictly comply with each requirement of the approved Affordable Housing Compliance Plan, the Affordable Housing Agreement, and any other applicable requirements of the IHO.
 - No building permit may issue until the Affordable Housing Agreement is recorded against the property. No building permit may issue except consistent with the requirements of the IHO and the proposed Plan to fulfill the affordable housing obligations.
 - No Temporary Certificate of Occupancy, Certificate of Occupancy, or Notice of Completion for any units shall be issued until all requirements of the IHO and Affordable Housing Agreement are met.
8. **No Extended Construction Hours.** This Permit does not allow any construction activity on a site located within 500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.
9. **Public Works Clearance for Building Permit(s) or Map Approval:** Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits. Standard review timelines and submittal instructions for Public Works permits may be found at the following: <http://www.sanjoseca.gov/devresources>.
- Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. The Minor Improvement Permit includes privately engineered plans, insurance, a surety deposit, and engineering and inspection fees.
 - Transportation:**
 - This project does not require a CEQA transportation analysis because the projects expected to result in less-than-significant VMT impacts based on Table 1 (Screening Criteria for CEQA Transportation Analysis for Development Projects) of the Transportation Analysis Handbook 2018, (small infill projects: single-family attached or multifamily housing of 25 units or less).
 - The projected traffic for this project was reviewed and found to be minimal, therefore no further traffic analysis is required.
 - Grading/Geology:**
 - A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm

- drain system from the site. An erosion control plan may be required with the grading application.
- ii. All on-site storm drainage conveyance facilities and earth retaining structures 4 feet in height or greater (top of wall to bottom of footing) or is being surcharged (slope of 3:1 or greater abutting the wall) shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2013 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval and should be designed to convey a 10-year storm event.
 - iii. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit. This report should include, but is not limited to: foundation, earthwork, utility trenching, retaining and drainage recommendations.
 - d. **Stormwater Runoff Pollution Control Measures:** This project must comply with the City's Post-Construction Urban Runoff Management Policy (Policy 6-29) which requires implementation of Best Management Practices (BMPs) which includes site design measures, source controls and numerically-sized Low Impact Development (LID) stormwater treatment measures to minimize stormwater pollutant discharges.
 - i. A design of the pervious pavement by a Licensed Geotechnical Engineer shall be submitted prior to the issuance of a Public Works Clearance.
 - e. **Stormwater Peak Flow Control Measures:** The project is located in a non-Hydromodification Management area and is not required to comply with the City's Post-Construction Hydromodification Management Policy (Council Policy 8-14).
 - f. **Flood Zone D:** The project site is not within a designated Federal Emergency Management Agency (FEMA) 100-year floodplain. Flood Zone D is an unstudied area where flood hazards are undetermined, but flooding is possible. There are no City floodplain requirements for Zone D.
 - g. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
 - h. **Parks:** This residential project is subject to the payment of park fees in-lieu of land dedication for public park and/or recreational purposes under the requirements of the City's Impact Ordinance (Chapter 14.25 of Title 14 of the San Jose Municipal Code) or the Parkland Dedication Ordinance (Chapter 19.38 of Title 19 of the San Jose Municipal Code).
 - i. **Street Improvements:**
 - i. Remove and replace curb, gutter, and sidewalk along the Page Street project frontage with a 9-foot ADA compliant detached sidewalk section. This includes a 0.5-foot wide curb, 4-foot planter strip, and a 4.5-foot wide sidewalk. A Street Easement Dedication of approximately 2 feet will be required.
 - ii. Provide an appropriate sidewalk transition from the new 9-foot wide sidewalk to the existing 6.5-foot sidewalk along the north and south ends of the project. The transitions should occur within the project boundaries.

- iii. Proposed driveway width to be 26 feet wide per City Standard Detail R-5.
 - iv. Close unused driveway cuts.
 - v. Developer shall be responsible for adjusting existing utility boxes/vaults to grade, locating and protecting the existing communication conduits (fiber optic and copper) along the project frontage.
 - vi. Dedication and improvement of the public streets to the satisfaction of the Director of Public Works.
 - vii. Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans any necessary pavement restoration will be included as part of the final street improvement plans.
 - j. **SNI:** This project is located within the Burbank/Del Monte SNI area. Public improvements shall conform to the approved EIR and neighborhood improvement plan.
 - k. **Sanitary:** The project is required to submit plan and profile of the sewer mains with lateral locations for final review and comment prior to construction.
 - l. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans.
 - m. **Street Trees:** The locations of the street trees will be determined at the street improvement stage. Contact the City Arborist at (408) 794-1901 for the designated street tree. Install street trees within public right-of-way along entire project street frontage per City standards; refer to the current "Guidelines for Planning, Design, and Construction of City Streetscape Projects". Street trees shall be installed in cut-outs at the back of curb. Obtain a DOT street tree planting permit for any proposed street tree plantings. Street trees shown on this permit are conceptual only.
 - n. **Private Streets:**
 - i. Per the Common Interest Development (CID) Ordinance, all common infrastructure improvements shall be designed and constructed in accordance with the current CID standards.
 - ii. In the future, if this apartment project converts to condominiums, it will be required that private streets and infrastructure comply with current Common Interest Development Standards, which may result in the reconstruction or modification of all private infrastructure. The developer has the option to construct the project in accordance with CID standards at present time if conversion is anticipated in the future.
10. **Soil Sampling.** Prior to issuance of grading permits, shallow soil samples will be taken in the near surface soil in the proposed project area and tested for lead to determine if contaminants from previous development occur at concentrations above established construction worker safety and commercial/industrial standard environmental screening levels. The result of soil sampling and testing will be provided to the City's Supervising Planner and Municipal Environmental Compliance Officer for review.

If lead-contaminated soils, are found in concentrations above the appropriate regulatory environmental screening levels for the proposed project the applicant shall obtain regulatory oversight from the Santa Clara County Department of Environmental Health (or Department of Toxic Substances Control) under their Voluntary Cleanup Program. A Site Management Plan

(SMP), Removal Action Plan (RAP), or equivalent document must be prepared by a qualified hazardous materials consultant. The plan must establish remedial measures and/or soil management practices to ensure construction worker safety and the health of future workers and visitors. The Plan and evidence of regulatory oversight shall be provided to the Supervising Environmental Planner of the City of San José Planning, Building, and Code Enforcement, and the Environmental Compliance Officer in the City of San José's Environmental Services Department.

11. Standard Environmental Condition

- a. **Air Quality.** The following measures shall be implemented during all phases of construction to control dust and exhaust at the project site:
 - i. Water active construction areas at least twice daily or as often as needed to control dust emissions.
 - ii. Cover trucks hauling soil, sand, and other loose materials and/or ensure that all trucks hauling such materials maintain at least two feet of freeboard.
 - iii. Remove visible mud or dirt track-out onto adjacent public roads using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - iv. Enclose, cover, water twice daily or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
 - v. Pave new or improved roadways, driveways, and sidewalks as soon as possible.
 - vi. Lay building pads as soon as possible after grading unless seeding or soil binders are used. Replant vegetation in disturbed areas as quickly as possible.
 - vii. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
 - viii. Minimize idling times either by shutting off equipment when not in use, or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations). Provide clear signage for construction workers at all access points.
 - ix. Maintain and properly tune construction equipment in accordance with manufacturer's specifications. Check all equipment by a certified mechanic and record a determination of running in proper condition prior to operation.
 - x. Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints.
 - xi. Selection of construction equipment to minimize emissions. The project shall develop a plan demonstrating that the off-road equipment used on-site to construct the project would achieve a fleet-wide average 74-percent reduction in DPM exhaust emissions or greater. One feasible plan to achieve this reduction would include the following:

All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 3 engines that shall include CARB-certified Level 3 Diesel Particulate Filters¹⁰ or equivalent. Equipment that meets U.S. EPA Tier 4 standards for particulate matter emissions would meet this requirement.

b. Biological Resources

- i. *Santa Clara Valley Habitat Plan.* The project is subject to applicable SCVHP conditions and fees (including the nitrogen deposition fee) prior to issuance of any grading permits. The project applicant would be required to submit the Santa Clara Valley Habitat Plan Coverage Screening Form to the Director of Planning, Building and Code Enforcement (PBCE) or the Director's designee for approval and payment of the nitrogen deposition fee prior to the issuance of a grading permit. The Habitat Plan and supporting materials can be viewed at www.scv-habitatplan.org.
- ii. *Tree Removal:* The trees removed by the proposed project would be replaced according to the City's required replacement ratios, as provided in the Tree Replacement Ratios Table below or alternative measures listed below.

Tree Replacement Ratios				
Circumference of Tree to be Removed ¹	Type of Tree to be Removed ²			Minimum Size of Each Replacement Tree
	Native	Non-Native	Orchard	
38 inches or more ³	5:1	4:1	3:1	15-gallon
19 to 38 inches	3:1	2:1	None	15-gallon
Less than 19 inches	1:1	1:1	None	15-gallon
¹ As measured 4.5 feet above ground level ² X:X = tree replacement to tree loss ratio ³ Ordinance-sized tree Notes: Trees greater than or equal to 38 inches in circumference shall not be removed unless a Tree Removal Permit, or equivalent, has been approved for the removal of such trees. For multi-family residential, commercial, and industrial properties, a Tree Removal Permit is required for removal of trees of any size. A 38-inch tree equals 12.1 inches in diameter. A 19-inch tree equals 6.1 inches in diameter. One 24-inch box tree= two 15-gallon trees				

The total number of trees required to be planted on-site would be 32. The species to be planted would be determined in consultation with the City Arborist and the Department of Planning, Building and Code Enforcement.

The size of a 15-gallon replacement tree can be increased to 24-inch box and count as two replacement trees.

- iii. *Nesting Migratory birds.* The project would implement the following measures to avoid impacts to nesting migratory birds:
 - 1) **Avoidance:** The project applicant shall schedule demolition and construction activities to avoid the nesting season. The nesting season for most birds, including most raptors in the San Francisco Bay area, extends from February 1st through August 15th (inclusive), as amended.

- 2) **Nesting Bird Surveys:** If it is not possible to schedule demolition and construction between August 16th and January 31st (inclusive), pre-construction surveys for nesting birds shall be completed by a qualified ornithologist to ensure that no nests shall be disturbed during project implementation. This survey shall be completed no more than 14 days prior to the initiation of construction activities during the early part of the breeding season (February 1st through April 30th inclusive) and no more than 30 days prior to the initiation of these activities during the late part of the breeding season (May 1st through August 15th inclusive). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats immediately adjacent to the construction areas for nests.
 - 3) **Buffer Zones:** If an active nest is found sufficiently close to work areas to be disturbed by construction, the ornithologist, in consultation with the California Department of Fish and Wildlife, shall determine the extent of a construction free buffer zone to be established around the nest, typically 250 feet, to ensure that raptor or migratory bird nests shall not be disturbed during project construction. The no-disturbance buffer shall remain in place until the biologist determines the nest is no longer active or the nesting season ends. If construction ceases for two days or more then resumes during the nesting season, an additional survey shall be necessary to avoid impacts to active bird nests that may be present.
 - 4) **Reporting:** Prior to any tree removal, or approval of any grading permits (whichever occurs first), the project applicant shall submit the ornithologist's report indicating the results of the survey and any designated buffer zones to the satisfaction of the Director of Planning, Building and Code Enforcement or the Director's designee, prior to issuance of any grading or building permits.
- c. **Construction Related Noise.** Noise minimization measures include, but are not limited to, the following:
- i. Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday, unless permission is granted with a development permit or other planning approval. No construction activities are permitted on the weekends at sites within 500 feet of a residence.
 - ii. Construct solid plywood fences around ground level construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.
 - iii. Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
 - iv. Prohibit unnecessary idling of internal combustion engines.
 - v. Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
 - vi. Utilize "quiet" air compressors and other stationary noise sources where technology exists.

- vii. Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
 - viii. Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses and nearby residences.
 - ix. If complaints are received or excessive noise levels cannot be reduced using the measures above, erect a temporary noise control blanket barrier along surrounding building facades that face the construction sites.
 - x. Designate a "disturbance coordinator" who shall be responsible for responding to any complaints about construction noise. The disturbance coordinator shall determine the cause of the noise complaint (e.g., bad muffler, etc.) and shall require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include it in the notice sent to neighbors regarding the construction schedule.
 - xi. Limit construction to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit. Construction outside of these hours may be approved through a development permit based on a site-specific "construction noise mitigation plan" and a finding by the Director of Planning, Building and Code Enforcement that the construction noise mitigation plan is adequate to prevent noise disturbance of affected residential uses.
 - xii. The project shall include a five-foot tall noise barrier to acoustically shield Unit 1 meeting the following design and performance standards:
 - xiii. Noise barriers should be solid from grade to top, with no cracks or gaps, and have a minimum surface density of 3 lbs/ft². Suitable barrier materials can include one-inch nominal thickness wood fence boards, ½-inch laminated glass, concrete masonry units (CMU), and/or masonry block. Such barrier materials can be used exclusively or in combination with one another. For a wood wall to meet the surface weight and solidity requirements, it is typically recommended that a homogenous sheet material, such as ¾" plywood, be used as a backing for typical 1" thick (nominal) wood fence slats. Using the plywood ensures the continued effectiveness of the barrier with age, since wood slats alone tend to warp and separate with age allowing gaps to form and the barrier effect of the wall to diminish.
12. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San Jose Municipal Code.
13. **Compliance with All Laws.** The subject use shall be conducted in full compliance with all local and state laws, regulations and required permits. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
14. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
15. **Outdoor Storage.** No outdoor storage shall be allowed or permitted.
16. **Anti-Graffiti.** The permittee shall remove all graffiti from buildings, fences, and wall surfaces within 48 hours of defacement.

17. **Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris.
18. **Refuse.** All trash areas shall be effectively screened from view, shall be covered or shall consist of self-contained weather tight compactor(s), and shall be maintained in an orderly state to prevent water from entering into the garbage container. Trash areas shall be maintained in a manner to discourage illegal dumping.
19. **Lighting.** All new on-site, exterior, unroofed lighting shall conform to the City's Outdoor Lighting Policy and shall use fully cut-off and fully shielded, low-pressure sodium fixtures unless otherwise approved with this project. Lighting shall be designed, controlled and maintained so that no light source is visible from outside of the property.
20. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to review and approval by the Director of Planning through a subsequent Permit Adjustment.
21. **Building and Property Maintenance.** The property owner shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, and lighting and landscaping.
22. **Revocation, Suspension, Modification.** This Site Development Permit may be revoked, suspended or modified by the Planning Director, or by the Planning Commission on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 1, Section 20.100.350, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Site Development Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

APPROVED and issued on **this 24th day of March, 2021.**

Rosalynn Hughey, Director
Planning, Building, and Code Enforcement

Deputy